

MEETING
STATE OF CALIFORNIA
SECRETARY OF STATE
VOTING SYSTEMS PANEL

SECRETARY OF STATE
1500 11TH STREET
AUDITORIUM
SACRAMENTO, CALIFORNIA

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Reported by:

James Ramos

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

PANEL MEMBERS

Mark Kyle, Chairperson, UnderSecretary of State

Laurie McBride

Chon Gutierrez, Assistant Secretary for Operations

Marc Carrel

John Mott-Smith, Chief, Elections Division

Terri Carbaugh

Deborah Davis

Bernard Soriano, Chief, Information and Technology Division

STAFF

Dawn Mehlhaff, Director, Voter Outreach Programs

ALSO PRESENT

Michael T. Lawless, Software Engineering Manager
Hart Intercivic

Joseph F. Taggard, Jr., Revional Sales Vice President
ES&S

Maureen Smith, former Chairperson
Peace and Freedom Party

Curt Fielder
DFM Associates

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1 P R O C E E D I N G S

2 CHAIRPERSON KYLE: Good morning. Let's start the
3 meeting. My name is Mark Kyle, I'm the UnderSecretary of
4 State. And this is the Voting Systems Panel meeting
5 convened on Tuesday, May 13th. It's the first meeting for
6 the year 2003, and the first meeting under the new Secretary
7 of State Kevin Shelley.

8 Welcome to Committee Members who are new, and to
9 those who have returned from previous tours of duty. And
10 welcome to our staff in front of me, and to you audience
11 members. I see folks have turned out in droves to address
12 the issues presented to us today.

13 So, without further ado, I would like to start the
14 meeting. We're missing one panel member, but we do have a
15 quorum, so I'm going to proceed without him. He will join
16 us shortly.

17 So I would like to go ahead and jump into the
18 order of the business, and ask for a staff report on the
19 first agenda item, Hart Intercivic's Eslate DRE Voting
20 System Modification - System 2.1. Dawn, will you be
21 presenting for that?

22 MS. MEHLHAFF: Yes.

23 CHAIRPERSON KYLE: Please do so then.

24 MS. MEHLHAFF: And the vendor is also present
25 today, if you have questions that I cannot answer.

1 CHAIRPERSON KYLE: Thank you. And would the Hart
2 Intercivic representative please identify him or herself?
3 Good morning, thank you very being here. We appreciate you
4 taking the time to be here. Go ahead, Dawn.

5 MS. MEHLHAFF: The Hart system -- it's currently a
6 certified system, it was certified last year. It's an
7 entire system, has a DRE system, a ballot-on-demand system
8 and then a precinct-based calculation system that can be
9 done at a central location as well. So it's kind of an all-
10 inclusive system.

11 It is a currently certified system. However the
12 vendor has made some modifications to it, and they have
13 added one new feature that is not contained in the currently
14 certified version.

15 The feature that's new is called Servo, and
16 basically that's a new functionality that's essentially a
17 warehousing feature where they can keep track of the
18 systems, all the devices -- the voting devices -- that go
19 out to the precinct. They can keep track of the cards
20 essentially that are assigned to those.

21 And it just kind of gives them a different
22 replication and a warehousing management tool of that. So
23 it's not required of the system, the jurisdiction does not
24 need to use it, they can use it if they so choose to. And
25 then can also keep records of the vote and kind of be

1 another backup option for the jurisdiction. But it's not
2 necessary for the system.

3 All of the modifications that go through federal
4 testing, the federal ITA looked at all of them and said
5 they're minor modifications, they do not have any
6 significant impacts and they did meet all of their
7 standards. The modifications were also tested by us here in
8 California by our technical consultant. He as well felt
9 they were all enhancements.

10 They were essentially just tweaks to their current
11 system, where they would get error messages on some of their
12 reports. They fixed that to allow larger capability on
13 certain things.

14 So as they use the system they've found ways to
15 improve it. And that's essentially what this modification
16 is. They're just working out some of their little glitches.

17 Our technical consultant looked at it. I tested
18 this system as well, and our technical consultant felt these
19 were all minor modifications and no further testing or
20 examination was necessary on this. I can run through -- I
21 know you've all seen the staff report -- I can run through
22 all of the changes for each of the components if the Chair
23 so desires?

24 CHAIRPERSON KYLE: I'm not so sure -- I have some
25 questions specific to your overview. And I'm wondering if

1 the other panel members -- do any of the other panel members
2 feel like they want to run through it, or should we just
3 open it to questions? Questions on this end? Okay, then
4 why don't we just jump into some questions. Bernard, shall
5 we start with you?

6 PANEL MEMBER SORIANO: Dawn, the testing that you
7 did. Did that include speaking to any of the members of
8 Hart in terms of how the -- what was it called -- Servo
9 integrates with any of the other sub-systems, or did you
10 just leave it up to Hart to do their integration testing?

11 MS. MEHLHAFF: No, we tested. They brought the
12 whole system to us at the end of last year, so we tested
13 Servo in conjunction with all of these changes. It was hard
14 to test -- I mean, we tested the entire system but some of
15 these -- you know, if the template allows for a larger
16 ballot -- and it does that. We saw that. So it's those
17 types of testing.

18 But we did run it through a similar test as far
19 as, you know, we ran a test check where we marked ballots,
20 we made sure that, you know, it read those, and it stored
21 them. We played with, basically, their reporting results.
22 So we did test the Servo part of it, and looked at that.

23 So no, we did not just take their word for it.
24 But it's basically that resides on the computer. Basically
25 back at the county registrar's office. It doesn't reside

1 out in the field at the polling places.

2 CHAIRPERSON KYLE: Deborah, do you have any
3 questions?

4 PANEL MEMBER DAVIS: No, I don't.

5 CHAIRPERSON KYLE: Ms. Carbaugh?

6 PANEL MEMBER CARBAUGH: I just have a quick
7 question. In the overview, Dawn, you had mentioned that
8 errors do not occur when more than 200 mobile ballot boxes
9 are written. I didn't understand that?

10 MS. MEHLHAFF: The currently certified system,
11 those are the cards where you basically download the ballot
12 information to. If they did 200 of those the system would
13 give them an error message, basically saying that they'd
14 copied to many. And they only had it set to allow for 200.
15 So they just increased that amount so that they can burn as
16 many as they need.

17 CHAIRPERSON KYLE: The previous capacity was 200.

18 MS. MEHLHAFF: Right.

19 CHAIRPERSON KYLE: But it's being --

20 MS. MEHLHAFF: So if they ran 201, it would give
21 them an error. So it just allows them to burn additional
22 cards without getting an error message and having to clear
23 that.

24 CHAIRPERSON KYLE: Mr. Mott-Smith?

25 PANEL MEMBER MOTT-SMITH: No, sir.

1 CHAIRPERSON KYLE: John?

2 PANEL MEMBER SORIANO: Move the recommendation of
3 staff.

4 CHAIRPERSON KYLE: Okay. I'm going to hold that
5 move for a moment.

6 PANEL MEMBER GUTIERREZ: No questions.

7 PANEL MEMBER MCBRIDE: No questions.

8 CHAIRPERSON KYLE: I have a couple. It says that
9 larger databases can be created and copied forward. Where?

10 MS. MEHLHAFF: That -- and the vendor can correct
11 me on this if I'm a little fuzzy on this, but I believe
12 that's when they create the databases for the county
13 registrar's office in terms of the ballot setup. And also
14 includes the results later in the tabulation just so they
15 can copy them and forward them on to however the county's
16 going to maintain that.

17 Whether they're going to copy it onto a different
18 database after it's certified. So it's just a functionality
19 of copying it and forwarding it over. It's on the end
20 result of it.

21 CHAIRPERSON KYLE: Okay. So that doesn't really
22 answer my question. So could I direct the question to the
23 vendors, please. Hold on for a second -- is there a
24 microphone set up for -- can we grab one of these and just
25 -- is it on the podium?

1 MS. MEHLHAFF: You can have this one.

2 CHAIRPERSON KYLE: Please state your name and your
3 title?

4 MR. LAWLESS: My name is Michael Lawless. I'm the
5 software engineering director at Hart Intercivic.

6 CHAIRPERSON KYLE: Thank you.

7 MR. LAWLESS: I think your question is about the
8 idea of copying forward, and you're wanting to understand
9 what that is. Basically, in our system, copying forward is
10 essentially creating a replication of the database.

11 What we did, on this particular feature that I
12 think you're referring to, is increase the size of the
13 database that can be copied forward, and improve the
14 scalability of the system by doing that.

15 CHAIRPERSON KYLE: Okay. And where does that
16 live, when you're talking about --

17 MR. LAWLESS: The copied forward database resides
18 in the same location, the same directory, as the previous
19 database instance.

20 CHAIRPERSON KYLE: And where does the previous
21 database reside?

22 MR. LAWLESS: Within the same directory structure,
23 under a different name.

24 CHAIRPERSON KYLE: Not in the mobile systems out
25 in the field?

1 MR. LAWLESS: No.

2 MS. MEHLHAFF: It's at the county location.

3 CHAIRPERSON KYLE: That's good clarification,
4 thank you. So, Dawn, on your recommendation you mainly talk
5 about Servo. However, there is the Boss TVS, including
6 tallying and ballot now site servo. Are those of any
7 significance, I mean we just talked about some of the Boss
8 stuff?

9 MS. MEHLHAFF: Everything except Servo is
10 currently contained in their current certification, and the
11 changes to those components are very insignificant. They're
12 literally just minor tweaks that they have worked out of the
13 system. The only substantive item here is adding a Servo.

14 But because they are software changes it needed to
15 come before you, and it did go through federal testing. But
16 they are just minor modifications.

17 CHAIRPERSON KYLE: All right. Any other
18 questions?

19 PANEL MEMBER CARREL: I'll second the previously
20 made motion.

21 CHAIRPERSON KYLE: A second is in order, and the
22 motion is to adopt the recommendation as provided by the
23 staff. Can we take a voice vote. All those in favor? Any
24 opposed? The ayes have it. Thank you very much. So if we
25 can go to ES&S Optical Scan Modification - Model 650. Do we

1 have any representatives from ES&S?

2 MS. MEHLHAFF: Yes, we do.

3 CHAIRPERSON KYLE: Okay, great. Thank you for
4 being here today.

5 MS. MEHLHAFF: Currently, ES&S has a model --

6 CHAIRPERSON KYLE: I'm sorry. Mr. Mott-Smith just
7 -- before we go into that, are there any public comments
8 from the audience on the previous system, the Hart
9 Intercivic, and that proposal, before we move to the second
10 proposal?

11 Okay, hearing none then, we'll close that and move
12 on to the second one. Thank you. Dawn, please resume.

13 MS. MEHLHAFF: Currently ES&S has a Model 150 and
14 a Model 550 currently certified for use in California.
15 Those are central scanners, and they are used at basically
16 election central or wherever the county registrar is having
17 ballots on election night. They are not used at the
18 precinct level.

19 This request is for a Model 650, which is
20 essentially identical to their 650 that's current certified
21 in the state of California. However, it has basically three
22 modifications to it.

23 CHAIRPERSON KYLE: You said it's similar to 650,
24 similar to 550?

25 MS. MEHLHAFF: 550, I apologize, yes. 650 is just

1 a modification of the 550. The only difference between what
2 they're bringing forward today and what's currently used in
3 the state is that they replaced the floppy disc drive with a
4 zip disk, just to allow more data to be stored on to one
5 disc, instead of switching them out.

6 It'll -- they provide a larger outstaff tray.
7 They feed the ballots through on the back end so they can
8 accommodate larger 17 and 19 inch ballots, to accommodate
9 larger jurisdictions. And they changed their read head to
10 visible red light as opposed to an infrared light. So,
11 those are essentially the only changes to this system.

12 CHAIRPERSON KYLE: And we have a recommendation in
13 front of us to adopt?

14 MS. MEHLHAFF: Correct.

15 CHAIRPERSON KYLE: I'd like to open it to any
16 questions from the panel?

17 PANEL MEMBER CARBAUGH: I have a question, Dawn.
18 Your overview states that the newer model alerts the
19 operator of overvote and damaged ballot cards. In what way
20 does it do that?

21 MS. MEHLHAFF: It'll give them a message on
22 screen. When they feed it through there's a screen,
23 basically, and a control panel in front of the operator.
24 And so it'll alert them basically.

25 And I believe that -- and the vendor can correct

1 me if I'm wrong -- but I believe that it can be programmed
2 so that it can automatically stop on every over-voted or
3 damaged ballot, or it can just go through, and then provide
4 a readout of that with that ballot stack and they can go
5 back and look at it.

6 But it's a message to the operator that alerts
7 them that there's a damaged ballot and they can stop it at
8 that time, or it will stop automatically. And they can take
9 that out and send it to the appropriate board to be
10 resolved.

11 PANEL MEMBER CARBAUGH: So is there a training
12 component, if now somebody's alerted to an overvote, of what
13 to do with that overvote? It just seems to be an addition
14 to how it's been handled in the past?

15 MS. MEHLHAFF: It's just -- not really. Because
16 the county election officials already know how -- with the
17 system -- how to deal with those situations. Whether it's a
18 damaged or undervote or overvote ballot.

19 This tool just gives them that point in the
20 process to do it, as opposed to looking at it beforehand or
21 after. They can just use the scanner to identify those
22 situations, instead of relying on the staff to manually go
23 through them and find those situations.

24 CHAIRPERSON KYLE: Dawn? Is this alert feature
25 present in the 550 model?

1 MS. MEHLHAFF: I do not believe so, but Joe?

2 CHAIRPERSON KYLE: Maybe our ES&S representative
3 could elaborate on both of these points? Sir, if you'd
4 please state your name and title when you get to the table,
5 we'd appreciate it.

6 MR. TAGGARD: My name's Joe Taggard. I'm a senior
7 account rep for ES&S here in California. I live in Marin
8 County.

9 CHAIRPERSON KYLE: Good place.

10 MR. TAGGARD: I think under direction of the
11 registrar of voters, or the elections director, certain
12 ballot anomalies can be stipulated to have the machine stop
13 and do your checking for you.

14 When you're dealing with absentee ballots, which
15 essentially is what this is, they're voted away from the
16 polling place. And you cannot control, at point of
17 introduction of the ballot by the electorate, to a precinct
18 tabulation device, if you're working in a central scan
19 environment.

20 Therefore, the system stops and says this is an
21 overvote, this ballot is blank, this ballot is in error, and
22 these anomaly conditions can be specified. Certain of them
23 could in the 550, we've expanded that range.

24 PANEL MEMBER SORIANO: And is the capability to
25 expand that range the result of the three changes that you

1 made?

2 MR. TAGGARD: No. There have always been options
3 available to the user. That part of it did not change.

4 PANEL MEMBER GUTIERREZ: With regards to the
5 floppy disc, could you characterize when that's used and
6 what data is contained in it, and what happens to that data?

7 MR. TAGGARD: It's the election summary data, and
8 it generally was updated -- if you were counting absentees
9 on a periodic basis, or if you had to take it and
10 reintroduce it over into a results accumulation network if
11 you were using a different type of voting appliance in the
12 precincts.

13 For instance, a precinct scanner versus a central
14 counter for absentees, to take those. We felt that the
15 floppy was too limited in terms of the amount of data we
16 could capture there, so we went to a zip there so we could
17 hold more information.

18 PANEL MEMBER GUTIERREZ: And how often in the past
19 did you replace the floppy versus your projections on how
20 often you have to replace the zip? Not in terms of worn
21 out, but when it fills up?

22 MR. TAGGARD: Well, we shouldn't have to replace
23 the zip, okay, for the entire process. In the case of the
24 floppy it could have been every half an hour to 45 minutes,
25 based on the number of precincts you were processing through

1 there. How a county counts their absentee ballots.

2 PANEL MEMBER GUTIERREZ: Sure, it's a matter of
3 volume.

4 MR. TAGGARD: It's a -- yes.

5 PANEL MEMBER GUTIERREZ: Thank you.

6 CHAIRPERSON KYLE: Why didn't you decide to go
7 with something a little bit next generation, like a CD that
8 could be burned, that has a lot more capacity than a zip?

9 MR. TAGGARD: I don't know the answer to that.

10 CHAIRPERSON KYLE: It seems at some point in time
11 we're going to hit the wall with the zip drive the same way?

12 MR. TAGGARD: I think we can accommodate the
13 largest -- with the zip drive I think you can accommodate
14 the largest number of ballots that you're going to see.

15 CHAIRPERSON KYLE: Really?

16 MR. TAGGARD: Yes, sir, I do.

17 CHAIRPERSON KYLE: Okay.

18 PANEL MEMBER GUTIERREZ: And that introduces the
19 opportunity for error, right, as you're taking out these
20 zips and putting in another one? So the more you handle it
21 the greater the likelihood for error?

22 MR. TAGGARD: That's right. When you're sneaker
23 nutting (sp?), as you know, you can --

24 PANEL MEMBER CARREL: Yes, I had the same question
25 about the CD-Roms, not because the zips couldn't handle the

1 amount of information, but because they're becoming
2 obsolete. And CD-Roms are becoming the next, the rewrite
3 with CD-Roms.

4 PANEL MEMBER GUTIERREZ: We'll probably see you
5 soon then?

6 MR. TAGGARD: Hopefully not for awhile.

7 CHAIRPERSON KYLE: Any other questions?

8 PANEL MEMBER SORIANO: Joe, I guess I'm still
9 confused about this. And, if you could just help me get
10 some clarification. The only difference between the 550 and
11 the 650 are the three changes that Dawn had outlined -- the
12 zip drive, the enlarged stack tray, and the change from
13 infrared to visible red?

14 MR. TAGGARD: Yes, sir.

15 PANEL MEMBER SORIANO: But there's another change.
16 And that change is the ability for the operator to be
17 alerted for the overvote, is that correct?

18 MR. TAGGARD: I don't believe so. I believe that
19 the 550 will stop for writeage, for overvotes, and for blank
20 ballots, and allow for operator intervention.

21 PANEL MEMBER SORIANO: Okay, so the three things
22 we tested, or the three things we know about, are the only
23 changes between the 550 and the 650?

24 MR. TAGGARD: That's right. And you tested the
25 system in its entirety also, not just for these three, in

1 its entirety.

2 PANEL MEMBER SORIANO: Okay. Thank you.

3 PANEL MEMBER GUTIERREZ: But we have to clarify
4 that point somehow, Dawn. If Bernard's assumption is -- not
5 that he's making the assumption -- but what he's nibbling on
6 is that there's no overvote on the 550.

7 MS. MEHLHAFF: Right, and -- correct me if I'm
8 wrong. The 550 allowed the county election official to
9 preprogram it, to say stop on the overvote, stop on the
10 undervote, whereas this system just defaults to that
11 automatically.

12 PANEL MEMBER GUTIERREZ: So we don't have to
13 followup then?

14 MS. MEHLHAFF: That's correct.

15 PANEL MEMBER SORIANO: Does that answer your
16 question, Bernard?

17 PANEL MEMBER SORIANO: Yes, I think that does.

18 MS. MEHLHAFF: So it does the functionality, they
19 just changed something so that it automatically defaults
20 without stopping, so they don't have to go in there and tell
21 it to do it.

22 PANEL MEMBER SORIANO: Okay, does that mean we
23 have to test that, or have we already tested that?

24 MS. MEHLHAFF: It has been tested, the whole
25 device has been tested.

1 PANEL MEMBER SORIANO: Okay, then that's fine.

2 MS. MEHLHAFF: And it has been tested at the
3 federal ITA as well.

4 CHAIRPERSON KYLE: It was tested?

5 MS. MEHLHAFF: It was tested, correct.

6 PANEL MEMBER SORIANO: Thank you.

7 CHAIRPERSON KYLE: Any other questions or points
8 from the panel? Any questions or comments from the audience
9 of our staff? Ma'am?

10 MS. SMITH: Yes --

11 CHAIRPERSON KYLE: Would you like to come down
12 here? State your name, and who you might be, if there's an
13 affiliation, or just an interested citizen off the street?

14 MS. SMITH: My name is Maureen Smith, I'm the
15 former Chairperson of Peace and Freedom Party. And until
16 recently I actually believed my vote counted. But, as I'm
17 reading more from such websites as tally.org, echotalk.org,
18 a lot of -- votescam.org -- I object to any system that ES&S
19 would produce being certified by the state.

20 ES&S has a terrible record in states from, well at
21 least from the time that it elected Senator Hagel from
22 Nebraska who owned part of it. Now we have the Amason
23 Brothers owning 68 percent of the company, and they have an
24 agenda in California of electing right-wing Christians to
25 change our country into a "Christian" state and not a

1 democracy.

2 I don't think much history on these companies has
3 been done. Sequoia is another company that has a terrible
4 record. And both of these companies hire convicted felons
5 in high positions. I believe that you're just going along a
6 path that's going to lead to more and more voter
7 disenfranchisement.

8 As we've seen, what was so obvious in Florida in
9 the 2000 elections, but it was just as bad in 2002 in more
10 states. And actually in 2000 in more states than we
11 witnessed. I would hope, and I don't know what goes on,
12 that a lot of research would be being done into the
13 companies that you are certifying.

14 Because they certainly appear to have their own
15 agendas, and there's no verifying the votes. There's no
16 paper trails on most of these.

17 CHAIRPERSON KYLE: Ma'am, I'm sorry, I didn't get
18 your last name?

19 MS. SMITH: Smith.

20 CHAIRPERSON KYLE: That's what I thought, thank
21 you. Ms. Smith, I appreciate your comments, they're duly
22 noted. This panel is empowered with a fairly narrow focus
23 of verifying and adopting technical standards for voting
24 systems in the state of California. And proposed
25 modifications or the introduction of new systems.

1 So, unless your comments are directly on point to
2 the specific agenda item under review -- and in this
3 particular case it's ES&S modification -- I'm going to rule
4 you slightly out of order.

5 However, you did make your objection to ES&S
6 generally, and that has been noted, along with your very
7 interesting political commentary on the motives of the
8 companies -- and I believe they are all for profit, if I'm
9 not mistaken.

10 So I'm sure there are a lot of folks who share
11 your concerns. And a number of the concerns that you've
12 raised are shared by a variety of different people
13 throughout the agency. But this is not the correct forum
14 for addressing that.

15 MS. SMITH: Could you tell me what forum would be
16 in the Secretary of State's office?

17 CHAIRPERSON KYLE: If you wanted to write what
18 you're saying I would be happy to take your comments under
19 review, and share them with the appropriate people within
20 the agency. I'd be interested in hearing what you have to
21 say in further detail.

22 I know that the Secretary, as well as other higher
23 level agency staff, have met with members of your party, and
24 discussed various issues of concern. So I know there is a
25 dialogue between our agency and the Peace and Freedom Party

1 at a number of different levels, at very high levels.

2 So we would welcome continuation of that dialogue,
3 and if you specifically wanted to join and participate in
4 that dialogue you're certainly encouraged to do so.

5 Today, I'm going to restrict it to the technical
6 aspects, with the one objection of your exception to ES&S,
7 painted broadly with broad strokes across the state. Thank
8 you.

9 MS. SMITH: Thank you.

10 CHAIRPERSON KYLE: Any other comments? All right,
11 hearing none, a motion is in order? From any panel member?

12 PANEL MEMBER CARREL: Motion to adopt staff
13 recommendation.

14 PANEL MEMBER CARBAUGH: I second.

15 CHAIRPERSON KYLE: All those in favor? Any
16 objections? The ayes have it.

17 PANEL MEMBER MOTT-SMITH: I think I'll abstain
18 just on this part of the discussion.

19 CHAIRPERSON KYLE: And one abstention.

20 PANEL MEMBER MCBRIDE: Make that two abstentions.

21 CHAIRPERSON KYLE: Two abstentions. The ayes have
22 it. Okay. Let's proceed to item number three on the
23 agenda, which is DFM Associates' Mark-A-Vote Voting System
24 Modification - 312 Vote Position Ballot. And do we have any
25 representatives? We do, sir. Hello, thank you for being

1 here this morning. Dawn, would you like to make a
2 presentation?

3 MS. MEHLHAFF: Sure. This is a pretty simple
4 minor modification. Currently the DFM, with the Mark-A-Vote
5 card -- you have a copy of what the card looks like in your
6 briefing materials on that second page. It's a 52-vote
7 position card. It's a card with the actual candidate names
8 written on it. That is currently certified for use.

9 DFM has used that for over 20 years in the state
10 with their system. They are bringing forward for
11 certification the 312 card, which basically has 312 vote
12 positions on the card. It's an optical scan card, the same
13 as their 52-vote position.

14 The only difference is the 312 card doesn't have
15 the candidate's names written on it, and it's read on only
16 one side. The 52 card is read on both sides. Same
17 software, same read heads, nothing in that sense has been
18 modified. It has just been basically just the card that has
19 been modified.

20 It has been tested, and it functioned as desired,
21 and the performance was fine on that. So it's basically
22 they're just changing the ballot card for the voting system.

23 PANEL MEMBER GUTIERREZ: I'm trying to be visual
24 on this thing. The last one we saw, that was how many
25 columns? 52, 53?

1 MS. MEHLHAFF: It's 52 vote positions.

2 PANEL MEMBER GUTIERREZ: So it's three columns?

3 CHAIRPERSON KYLE: No, it's two columns.

4 PANEL MEMBER GUTIERREZ: And we just had the pages
5 flipped, and we put the ink pen into the hole and it marked
6 the card, is that right?

7 MS. MEHLHAFF: That was the ink vote that you saw
8 recently.

9 PANEL MEMBER GUTIERREZ: And does this work the
10 same way?

11 MS. MEHLHAFF: Essentially this can work as an
12 absentee, whereas the voter would just get this and they
13 will mark it across.

14 PANEL MEMBER GUTIERREZ: So there's no butterfly,
15 there's no flip pages or any of that?

16 MS. MEHLHAFF: No.

17 PANEL MEMBER GUTIERREZ: Thank you.

18 CHAIRPERSON KYLE: Marc?

19 PANEL MEMBER CARREL: Yes. I'm wondering why
20 they're coming forward with something. I understand the
21 need to make a greater number of spots available for
22 candidates, given the number on primary ballot, given the
23 number of spots on local ballots, essentially, the large
24 restrictions.

25 But I'm wondering if that's justification for the

1 312 from the 52 or not?

2 MS. MEHLHAFF: They're not going to replace the 52
3 with the 312. They're just going to use it as another
4 option for their customers. And they have brought the 312
5 forward at the request of some of their customers.

6 PANEL MEMBER CARREL: Okay. I just want to note
7 my concern from an election administration position. I
8 understand the goal of the clerks is to make it as easy to
9 read the ballots as possible, but from a voter standpoint
10 the goal should be the ease for marking the ballot and for
11 understanding the ballot.

12 I think going from a ballot with names on it to a
13 ballot with simply numbers on it -- which is eerily
14 reminiscent of a punchcard ballot -- is not only confusing
15 but difficult to confirm, difficult to check that you've
16 voted the way that you want to, and also, especially
17 confusing given that initiatives on the ballot often have
18 numbers that conflict with numbers on the punchcard.

19 So I'm not in favor of this. I understand that
20 certain election administrators prefer it because they need
21 it, but from a voter ease standpoint, or a voter confusion
22 standpoint, I really don't support it. I'm going to abstain
23 on this.

24 CHAIRPERSON KYLE: Would the DFM representative
25 like to respond or address any of these points? And I'm not

1 putting you on the spot, if you don't want to you don't have
2 to, but --

3 MR. FIELDER: I don't think I have anything
4 additional to add. As Dawn mentioned, a lot of our
5 customers are looking for touch screen voting systems, and
6 they are looking for a absentee solution, and this provides
7 them touch screens. And they are looking for solutions for
8 absentees, and this is a very subtle modification to try and
9 accommodate them. And that's all that we're doing.

10 MS. MEHLHAFF: And some of the counties have also
11 mentioned that, some of them who are transitioning as Curt
12 has mentioned, that if they're going from a Vote-A-Matic
13 card to this optical scan for their absentee, that their
14 voters already know, they're familiar with this format.

15 And so that's the argument that many of the
16 counties will make, is that it's for a transition period.

17 MR. CURRENT: It may be familiar, but it still has
18 the same downsides to it, and I've used punchcards in
19 Sacramento County. I never liked them. And I would not be
20 happy if my county switched over to this, because it's
21 similar to a bad system that we already had.

22 CHAIRPERSON KYLE: What counties do employ the
23 current certified system that this would replace?

24 MS. MEHLHAFF: That currently use the 52. The 312
25 will not replace the 52, it is just another option for those

1 counties who currently use this, or for additional counties
2 who may choose to use it.

3 So it's not necessarily going to replace, it's
4 just going to be an added option. And the counties -- Curt,
5 which counties use the 52?

6 MR. FIELDER: The counties that use the 52 are
7 Contra Costa, Sonoma, Lake, Butte, Sutter, Madera, Riverside
8 uses it for absentees -- I think those are the ones.

9 CHAIRPERSON KYLE: John, you had a question?

10 PANEL MEMBER MOTT-SMITH: I wanted to follow up on
11 the Chairman's question, and I'll address it to you. The
12 counties have expressed an interest in going on the 52 box
13 system to a larger one, how are they running the elections
14 now with only the 52?

15 MR. FIELDER: The counties that have expressed an
16 interest in this type of ballot are the counties who are
17 currently --

18 CHAIRPERSON KYLE: Before you answer, please state
19 your name?

20 MR. FIELDER: Curt Fielder, DFM Associates. The
21 counties that have requested us to come up with a solution
22 to their problems are the counties who have Vote-A-Matic and
23 it has been decertified and they have to move to a new
24 system.

25 Our current counties who are using the 52-position

1 marker vote have, none have indicated any interest in
2 switching. As you know, there are counties that have to
3 have a new voting system by the first of January, and those
4 are the counties that were using the punchcard Vote-A-Matic,
5 and they need a solution, an interim solution.

6 Some of the counties are looking that rushing into
7 touch screen may not be the thing to do, we need to get
8 passed, you know, the fallout of all of the touch screen
9 systems. And they have no voting system to use come January
10 1st.

11 PANEL MEMBER GUTIERREZ: A followup question on
12 that. I've always voted my entire life in a booth with
13 little flip cards, so that's my only reference point. If
14 I'm at home doing an absentee, how do I fill this thing out?

15 MR. FIELDER: I don't know. Did you have one of
16 the booklets that --

17 MS. MEHLHAFF: I did not bring it, but the numbers
18 will correspond.

19 PANEL MEMBER GUTIERREZ: So you're going from
20 here, and then you're coming over here and marking with a
21 pen?

22 MR. FIELDER: People that have used Vote-A-Matic
23 system for 20 years have been voting their absentee ballots
24 this way. They receive a booklet that has pages, lists all
25 the candidates with a number next to the candidate's name.

1 They punch that corresponding hole in the Vote-A-
2 Matic. They've been doing this for 20 years. The only
3 difference in what they have been doing for 20 years is,
4 instead of punching that hole they will mark it.

5 PANEL MEMBER GUTIERREZ: Thank you.

6 MR. FIELDER: But those are the counties that are
7 interested, are the ones that are being re-certified.

8 CHAIRPERSON KYLE: Before you leave, Mr. Fielder,
9 are there any other questions from panel?

10 PANEL MEMBER CARBAUGH: Is the card we're seeing
11 in our binder, is this the lifesize, the real size of the
12 card? Is it shrunk at all, or is this --

13 MS. MEHLHAFF: No, that's it. That's the card.

14 PANEL MEMBER CARBAUGH: That's it?

15 MS. MEHLHAFF: It'll have a stub on it, but --

16 PANEL MEMBER CARBAUGH: It is small.

17 MS. MEHLHAFF: Yes, but that is the card.

18 MR. FIELDER: It's exactly the same size as the
19 Vote-A-Matic card.

20 PANEL MEMBER CARREL: When you had over 52
21 candidates, or needed more than 52 spaces on the previous
22 version of the card, how did you do that?

23 MR. FIELDER: Multiple sides. Now, a typical
24 primary or general will be four or five cards.

25 PANEL MEMBER CARREL: Were they attached, or were

1 they one long card, or --?

2 MR. FIELDER: They are stitched to the same
3 cardboard backer, but the cards are individual cards.

4 PANEL MEMBER CARREL: Okay.

5 CHAIRPERSON KYLE: Any other questions?

6 PANEL MEMBER CARBAUGH: I'm wondering if it's
7 possible to put a stipulation that, you know, if we certify
8 this system I would certainly like to hear back, either from
9 staff or from the vendor, of some of the responses.

10 I echo Mark's concerns regarding the difficult
11 nature one would have in filling this form out, especially
12 if you're a senior citizen, if you have sight issues,
13 disability issues, etc. Is there a way that staff can keep
14 the panel posted on response, or --?

15 MS. MEHLHAFF: You can move to make a
16 recommendation that, on their certification, that any
17 jurisdiction that uses it has to report to us, and we can
18 stipulate what they have to report.

19 If you want to know the overvote/undervote rate of
20 this card and usability, we can certainly specify that as
21 part of their certification for whichever jurisdiction
22 chooses to use it. Or we can have that come from the
23 vendor, that's up to the panel.

24 CHAIRPERSON KYLE: What would be a good mechanism
25 for recording, what would be the -- I don't want to say

1 statistical -- but what would be the model that would be,
2 what are the parameters that you would want to impose on
3 this to get that kind of information, to get that kind of
4 data, what would be the screens that you would use?
5 Undervote, overvote, error ratio --?

6 MS. MEHLHAFF: Right. In the counties we could
7 compare that to the counties that are currently using a
8 Vote-A-Magic, because they already have those numbers for
9 their devices now. So, you could look at that and compare
10 it, and if it --

11 CHAIRPERSON KYLE: What numbers are they?

12 MS. MEHLHAFF: Do you know, John?

13 PANEL MEMBER MOTT-SMITH: Do you mean what
14 categories?

15 CHAIRPERSON KYLE: Yes, what would you look for?
16 I mean, you've suggested two things, but are there 27 other
17 options to look at, or are there two more options, no other
18 options?

19 PANEL MEMBER MOTT-SMITH: The only other thing
20 would be to add a customer survey of some kind.

21 PANEL MEMBER CARREL: I'll tell you what I would
22 like. I would like to -- because, it seems to me, if the
23 county is using a similar card for the Vote-A-Magic system
24 want a similar system because they think that their voters
25 are going to be used to it, and understand it, and of course

1 they understand it.

2 But I think the overvote/undervote issue is a
3 concern, and I'm wondering, comparing 312 card to the
4 overvote/undervote from those who use the 52 card, because I
5 think it's going to be clear that you're going to have more
6 confusion without name than with names.

7 And so, comparing the 312 with the 52, among the
8 jurisdictions that use them for the overvote/undervote, and
9 then we can come back after the next election and see, you
10 know, the efficacy of this system.

11 CHAIRPERSON KYLE: Well, John, I look to you, does
12 that sound like --?

13 PANEL MEMBER MOTT-SMITH: Yes, that's very doable,
14 good stuff.

15 CHAIRPERSON KYLE: Okay. We'll accept that as a
16 friendly amendment to this recommendation made by staff.

17 PANEL MEMBER CARREL: Now are we actually
18 recommending that the vendor come back or are we
19 recommending that this information be provided by those
20 counties that are --

21 CHAIRPERSON KYLE: I would suggest that the
22 counties that actually use it.

23 PANEL MEMBER CARREL: Okay.

24 CHAIRPERSON KYLE: Does that make sense? I'm not
25 sure from a --

1 PANEL MEMBER MOTT-SMITH: It does. Our procedures
2 require the counties to provide us with overvote/undervote
3 information after each election.

4 CHAIRPERSON KYLE: So --

5 PANEL MEMBER CARREL: So if we could agendize that
6 item after the next election to prepare that?

7 CHAIRPERSON KYLE: That's a verb. Mr. Gutierrez?

8 PANEL MEMBER GUTIERREZ: Just a followup to your
9 conversation with Mark. Some of your customers want to use
10 one card instead of three or four cards if they have more
11 than 52 items?

12 MR. FIELDER: No. We have 20 counties in the
13 state of California that are our customers. We have
14 supported all of the voting systems until this time. We
15 have supported the Vote-A-Matic, we have supported Poll-
16 Star, we have supported our own marker vote.

17 I know of no marker vote customer that is using
18 the 52 position that wants to switch to this card. The
19 customers that are expressing interest in this card are
20 customers who have Poll-Star and/or Vote-A-Matic that are
21 looking for an interim solution to their decertified ballot
22 counting problem.

23 And this is a very inexpensive thing to do, and
24 they can wait for all of this thing about getting new touch
25 screen systems to sort of settle down and see who's

1 successful and who isn't, rather than having to make that
2 decision and having to make that decision and having a new
3 system by next March.

4 PANEL MEMBER GUTIERREZ: Okay, now your current 20
5 customers, do they use this in the polling booth or in the
6 absentee cards?

7 MR. FIELDER: None of our current customers use
8 this new --

9 PANEL MEMBER GUTIERREZ: The 52, I'm sorry.

10 MR. FIELDER: Oh, the 52. They use it -- all of
11 them use it in both the polling place and absentees, except
12 Riverside. Riverside uses it for absentees only, they have
13 the Sequoia touch screen system for the polling place.

14 PANEL MEMBER GUTIERREZ: Thank you. And those
15 that are interested in this one, the 312 place, they would
16 use it for both the absentee and for the polling place?

17 MR. FIELDER: That would be their choice. I, you
18 know, I have people looking at it both ways.

19 CHAIRPERSON KYLE: But you believe that
20 predominately it's for this interim solution to use
21 certified systems for absentee --?

22 MR. FIELDER: I think predominately I do not think
23 this voting system will survive two years, to be honest and
24 truthful. It's just it has to be approved before it can be
25 used, and for people who are looking for an interim solution

1 because their current voting system has been decertified,
2 they either have to go buy a new voting system or they have
3 to have something that will get them by.

4 CHAIRPERSON KYLE: So it begs the question then of
5 whether the analysis proposed by Mr. Carrel is actually
6 accurate, because is there going to be a comparison of the
7 512 to the 312? The 52 to the 312?

8 MR. FIELDER: There will certainly be a large
9 number of counties still using the 52 position. Yes,
10 there's going to be close to a million voters using it.

11 MS. MEHLHAFF: But we won't get
12 overvotes/undervotes on the same card in the same county.

13 MR. FIELDER: Right. Well, it'd be different
14 counties. You could do the analysis on all of the counties
15 that used the 52 position and pick an office like president
16 and how many are undervoted and overvoted who use the 52.
17 You could do the same analysis on any county that used the
18 312. How many blank and how many undervotes did you have?
19 But it would be different counties.

20 CHAIRPERSON KYLE: All right. Any other
21 questions? Points? Then a motion is in order?

22 PANEL MEMBER CARBAUGH: I move.

23 CHAIRPERSON KYLE: And are you moving for the
24 staff recommendation with Mark's addendum?

25 PANEL MEMBER CARBAUGH: Yes. If you want two

1 motions, we can do two motions.

2 CHAIRPERSON KYLE: Does everyone understand that,
3 or should we --. I think we can do it as one. Does
4 everyone understand that? Does anyone not understand it,
5 and want me to articulate it? All right. Do I hear a
6 second?

7 MS. DAVIS: Second.

8 CHAIRPERSON KYLE: All those in favor? Anyone
9 opposed? Abstentions?

10 PANEL MEMBER GUTIERREZ: One.

11 PANEL MEMBER CARREL: Two.

12 CHAIRPERSON KYLE: Okay, two abstentions. The
13 ayes have it. Two abstentions duly noted. Thank you very
14 much. Thank you, Mr. Fielder. Let's move to item four.
15 Los Angeles County's InkaVote Voting System Modification -
16 19 and 26 Vote Position Ballot.

17 MS. MEHLHAFF: I do not believe anyone from the
18 county is here.

19 CHAIRPERSON KYLE: Anyone from Los Angeles County
20 here? Or anyone connected with this proposal? Thank you.
21 Dawn?

22 MS. MEHLHAFF: The InkaVote modification is
23 essentially opposite of the marker vote that you just heard.
24 The InkaVote is currently certified with that 312 card, with
25 just the numbers in the positions. They are bringing

1 forward a 19 and a 26 vote position card.

2 And it's 19 and 26, because their card reader only
3 reads the front side, so these are not two-sided cards. So
4 the read heads remain the same, all the software remains the
5 same. Basically it's just a different ballot card format
6 change. So it's basically the opposite of what you just
7 heard. They're going from numbers to now positions with
8 candidate names on them.

9 PANEL MEMBER CARREL: Clearly they heard my
10 concerns.

11 MS. MEHLHAFF: Yes. They knew what your concerns
12 would be, Mark.

13 PANEL MEMBER GUTIERREZ: And are they doing it for
14 that reason?

15 MS. MEHLHAFF: They're not sure what they're going
16 to do with this, but they just want it as an option. And
17 this is only being used in Los Angeles County at this point.
18 But any jurisdiction, just like any system, can choose to
19 utilize it.

20 PANEL MEMBER CARREL: How many jurisdictions --
21 you're saying only L.A. uses the 312 version?

22 MS. MEHLHAFF: They have not used it yet. March
23 will be the first time that they will use it.

24 PANEL MEMBER MCBRIDE: The 312, or the new?

25 MS. MEHLHAFF: They, the 312 is currently

1 certified, so that's what they will use. They may choose to
2 use the 19 and 26 actually in the precinct, and just use the
3 312 as an absentee. Or they may use the 19 or 26 at the
4 polls and absentee.

5 PANEL MEMBER CARREL: I would make the same
6 request on this as well. That if there are more than one
7 county, or if a county uses both types, that we can compare
8 the types with the names versus the types without the names.

9 CHAIRPERSON KYLE: Okay, but in the previous case
10 there was a clear -- it was clear what the county is using,
11 but not concurrently.

12 PANEL MEMBER CARREL: No, I understood that.

13 CHAIRPERSON KYLE: So, it would have to be the
14 same type of analysis here.

15 PANEL MEMBER CARREL: Correct. But you're saying
16 there's only one county using any of these cards?

17 MS. MEHLHAFF: Well, this is L.A. county's system.

18 PANEL MEMBER CARREL: Right. I mean, I'd still
19 like an analysis of whatever they're using, and you're
20 saying they may use both or they may use one. But I'd still
21 like an analysis so that we can compare it to either the
22 previous marker vote system that we just looked at, or if
23 they're using both of these, to compare them to each other.

24 MS. MEHLHAFF: And actually on the three files,
25 the L.A. county certification, when that was certified late

1 last year that condition was placed on that certification
2 that whenever they use this they do have to report back to
3 us on undervote and overvote rate with this card, compared
4 to their Vote-A-Matic card.

5 CHAIRPERSON KYLE: So is that condition part of
6 your staff recommendation?

7 MS. MEHLHAFF: I did not include that on here, but
8 it's part of their original certification, so I recommend
9 you carry that over.

10 CHAIRPERSON KYLE: Okay. Any other comments?

11 PANEL MEMBER MOTT-SMITH: I think what we'll do is
12 just do every voting system, every county, the undervote and
13 overvote rates, and let everybody look at the comparison.

14 CHAIRPERSON KYLE: Okay. Any other comments or
15 questions? From the audience? So, Mark, are you moving
16 that?

17 PANEL MEMBER CARREL: I am moving that.

18 CHAIRPERSON KYLE: Okay, so we have a
19 recommendation to adopt staff recommendation with the
20 addendum of carrying over, which is not explicit in your
21 recommendation, and making it explicit that we include a
22 analysis of the overvote and undervote.

23 And John, we'll also adopt your recommendation
24 that we do that in all systems. Do I hear a second?

25 PANEL MEMBER CARBAUGH: Second.

1 CHAIRPERSON KYLE: Ayes? Nos? Abstention? The
2 ayes have it. I have two other items. We were given two
3 items from the public that were submitted for our review. A
4 letter from Paul Franklin that I believe has to do with --
5 what does this have to do with?

6 MS. MEHLHAFF: Paper audit trail.

7 CHAIRPERSON KYLE: Okay, paper audit trail. And
8 another that has to do with touch screen voting machines. I
9 am going to re-articulate that this is not the appropriate
10 forum for either of these concerns, though they are
11 legitimate concerns of the parties.

12 And as such, I'm going to forward these to the
13 touch screen task force for review and if necessary or
14 appropriate, conclusion in your analysis and
15 recommendations.

16 And we have the Vice-Chair, who's doing an able
17 job with the touch screen task force, a more than able job,
18 and I'll lateral them to you, but they will not be under
19 review or commented on today. Any further items for
20 business? Hearing none, the hearing is closed. Thank you
21 all for attending, and have a good day.

22 (Whereupon, at 10:55 a.m. the meeting was adjourned)

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CERTIFICATE OF REPORTER

I, JAMES RAMOS, an Electronic Reporter, do hereby
certify:

That I am a disinterested person herein; that the
foregoing Secretary of State, Voting Systems Panel Meeting
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typewriting.

I further certify that I am not of counsel or attorney
for any of the parties in this matter, nor in any way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this
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